No. 82-835

Supreme Court, U.S.
FILED
JAN 26 1983
ALEXANDER L. STEVAS
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1982

PATRICIA THOMPSON and
EDDIE THOMPSON, JR.,
Appellants-Defendants,

v.

PEOPLES LIBERTY BANK,
Appellee-Plaintiff.

APPELLANTS BRIEF IN OPPOSITION TO DISMISS OR AFFIRM

PATRICIA THOMPSON, Pro Se
EDDIE THOMPSON, JR., Pro Se
P.O. Box 1221
Covington, Kentucky 41012
(606) 491-6278

I hereby certify that 3 copies of the foregoing Brief have been served by the United States mail, upon: Mr. Richard Nelson, 11 W. 6th Street, Covington, Kentucky, 41011, this _____ day of January, 1983.

PATRICIA THOMPSON, Pro Se

EDDIE THOMPSON, JR., Pro Se

COURT INDEX PRESS, INC. — 215 E. Ninth Street, Cincinnati, Ohio 45202 — (513) 241-1450

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1982

No. 82-835

PATRICIA THOMPSON and
EDDIE THOMPSON, JR.,

Appellants-Defendants,

v.

PEOPLES LIBERTY BANK,

Appellee-Plaintiff.

APPELLANTS BRIEF IN OPPOSITION TO DISMISS OR AFFIRM

While Appellants' position on the merits is adequately set forth in our (Appellants) Jurisdictional Statement, we think it desirable to reply to Appellee's assertions that the matter should be dismissed.

Appellee (Bank) does not deny: that it (Bank) hired police officers (at $5 an hour) to use force, terror, and violence to aid in the wrongful foreclosure (Appellant App. P. 20, 29); that it (Bank) refused Appellants' (Thompson's) mortgage payments (Appellant App. P. 21); that the trial court made no appraisal of Appellants (Thompsons) property before sale; that it (Bank) leased Appellants (Thompsons) home to 2 police officers in order

to gain possession on July 19, 1978 (Appellant (App. P. 20, 45); that it (Bank) also used the void writ and order (signed April 12, 1978) on July 19, 1978 to gain possession of Appellants home; that its attorney (Mr. Nelson) committed fraud on July 19, 1978 by claiming he (Nelson) had inadvertently inserted April 12, 1978 (Appellee App. P. 35, 36); or that the record has been tampered with in the case to aid Appellee (Bank).

Thus the question remains: Was the hiring of police officers and others by Appellee (Bank) to use force, terror, and violence to gain possession of the Thompsons (Appellants) real property in a mortgage foreclosure and to criminally prosecute Appellants (Thompsons) to aid in the wrongful foreclosure a violation of Appellants (Thompsons) Constitutional Rights – 4th, 5th, and 14th Amendments to the United States Constitution?

Appellee (Bank) contends that their (Bank's) employment of police officers to aid in the wrongful foreclosure is burdensome, irrelevant, immaterial and/or scandalous. However, this Court has concluded that ". . . the involvement of state officers . . . provides the state action to show a direct violation of . . . Fourteenth Amendment, equal protection right whether or not the actions were officially authorized or lawful, *Adickes* v. *Kress* & *Co.*, 398 U.S. 144, *U.S.* v. *Price*, 383 U.S. 787, *Monroe* v. *Pape*, 365 U.S. 167.

Appellee also appears concerned that it took Appellants over 4 years to prosecute their claim. It would be fair to say that, "If Appellee and police officer Jim Mercer had been able to get Appellant (Eddie) convicted on false charges brought in April 1976 (Appellants App. p. 39), or if Officer Finan and other officers hired by Appellee (Bank) had been successful on April 15, 1978, when they beat and threatened Appellant's (Eddie's) life, Appellants

(Thompsons) still may not have had an opportunity to present their claim (Appellants App. P. 20, 29).

Appellees annexed an appendix to its Motion to dismiss or affirm (Reply in opposition to petition for writ of certiorari). The Master Commissioner's Report of Sale is Appellees Appendix page 17, 18. The Master Commissioner reports that Appellants home on Highland Avenue was appraised at $16,000.00. On Appellees Appendix page 29 is an appraisal report of Appellants home which says Appellants home was appraised at $26,000.00. This appraisal was done by the "cost approach to value" and did not include 500 square feet of living space on the second floor. This appraisal report was submitted to trial court by Appellants. The last time Appellants saw the record this exhibit was not indexed, even though the Kenton Circuit Court Clerk has certified the Record at .... twice. (*See* S.Ct. R. 34.5) "Whenever, in the brief of any party, a reference is made to . . . or record, it must be accompanied by the appropriate page number. If the reference is to an exhibit, the page numbers at which the exhibit appears, at which it was offered in evidence and at which it was ruled on by Judge must be indicated. e.g., (PL. Ex 14; R. 199, 2134)."

If we further note the appraisal was attached to a rule 60.02 motion served on Appellee-Plaintiff on March 8, 1978 (Appellee Appendix P. 27). On April 12, 1978, Appellee had Judge Goodenough to sign a writ and order of possession (Appellee App. P. 33) without notice to Appellants.

On April 15, 1978, 3 police officers hired by the Bank beat and threatened Appellant's (Eddie) life. Appellee admits hiring at least one of the police officers and paying them $5 an hour. (Appellants Appendix P. 20, 29).

The Affidavit on Appellee Appendix P. 35 was filed on July 20, 1978, instead of July 12, 1978, as indicated. The Affidavit was filed only after Appellant inquired of the Judge about the April 12, 1978 writ and order of possession (July 19, 1978). We may note that the Affidavit was notarized on July 19, 1978. These are the kinds of misrepresentations Appellee continues to make.

The Motion and Notice on Appellee Appendix page 31 was never served on Appellants.

Appellee also makes reference to a flagrant arrearage on Appellants part, found by the trial court (Appellee Appendix P. 9).

There was no flagrant arrears; Appellants had pre-paid the principal from January 1, 1974 up until February or March 1976. Appellants had been making balloon payments. When Appellants went to make a balloon payment in June 1976, the Bank refused the mortgage payment.

Also, if we look at the complaint, paragraph 9, (Appellee Appendix P. 1, 4) we see that Appellant owed Appellee an additional $1,400.00 when the foreclosure was filed August 27, 1976, but by April 5, 1977, that amount was paid in full. (Appellee Appendix P. 6, 9, paragraph 7.)

PATRICIA THOMPSON, Pro Se
P.O. Box 1221
Covington, Kentucky 41012
(606) 491-6278

EDDIE THOMPSON, JR., Pro Se
P.O. Box 1221
Covington, Kentucky 41012
(606) 491-6278